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August 22, 2005

from **JAMES E. BEYER**

Direct: 937-449-6438 / Fax: 937-223-0724 / james.beyer@dinslaw.com

To: Examiner Michael P. Mooney
Firm: COMMISSIONER FOR PATENTS

Fax Number: 571/273-2422

Client Number: OPI 0008 PA

Pages: 5
(including cover)

Comments:

Applicants : Ridgway et al.
Serial No. : 10/658,218
Filed : September 9, 2003
Title : ELECTROOPTIC MODULATORS AND WAVEGUIDE
DEVICES INCORPORATING THE SAME
Art Unit : 2883
Conf. No. : 2716

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PTO/SB/17 (12-04)

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Effective on 12/08/2004,
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

Application Number	10/658,218
Filing Date	September 9, 2003
First Named Inventor	Richard Ridgway
Examiner Name	Michael P. Mooney
Art Unit	2883
Attorney Docket No.	OPI 0008 PA

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims _____ **Extra Claims** _____ **Fee (\$)** _____ **Fee Paid (\$)** _____

_____ - 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims _____ **Extra Claims** _____ **Fee (\$)** _____ **Fee Paid (\$)** _____

_____ - 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50 = _____	_____ (round up to a whole number) x _____	_____	_____

4. OTHER FEE(S)


Non-English Specification, \$130 fee (no small entity discount)

Other: Terminal Disclaimer

Fees Paid (\$)

130.00

SUBMITTED BY

Signature		Registration No. 39,564 (Attorney/Agent)	Telephone (937) 449-6400
Name (Print/Type)	James E. Bayer	Date 08/22/2005	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
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Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP = _____	x _____	= _____				
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
- 3 or HP = _____	x _____	= _____				
HP = highest number of independent claims paid for, if greater than 3						

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Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

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Other: Terminal Disclaimer

130.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 39,564	Telephone (937) 449-6400
Name (Print/Type)	James E. Beyer		Date 08/22/2005

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
 REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

OPT 0008 PA

In re Application of: Ridgway et al.Application No.: 10/658,218Filed: 9-sept-2003

For:

The owner, Optimer Photonics, Inc. of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,931,164 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 39,564



Signature

8/22/05

Date

James E. Beyer

Typed or printed name

937-449-6438

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
 Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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